REMARKS

Claims 1-22 are in this application. Independent claims 1, 17 and 18 have been amended.

In paragraph 2 of the Office Action, claims 1, 2, 4, 10 and 13-16 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,317,728 (Kane).

Claim 1 is directed to a method of facilitating trading, comprising automatically capturing a trade between two market participants, *one of the market participants being a buyer in the trade and the other of the market participants being a seller in the trade*, automatically determining, by a software process executing on a computer, whether each of the market participants has gained money or lost money from the trade, and automatically updating, by the software process, a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade.

Kane discloses a trading system wherein a trader sets up agents – an agent making a buy or sell suggestion based on its respective rules (column 5, lines 5-15). Kane's trading system considers each suggestion to be a vote (column 5, lines 37-48), and then creates a trade order based on the outcome of the vote and sends the trade order to a marketplace for execution (column 5, lines 49-55).

After a trade is executed, Kane's system compares the agent's suggestion with the outcome of the trade (win or loss); and "rewards" or "punishes" each agent, that is, adjusts its merit quotient (reliability rating) (column 8, lines 35-45).

Kane lacks the following features of claim 1:

- Kane fails to capture trades between a buyer and a seller; rather, Kane's system only keeps track of its own side (buy or sell) of a trade;

- Kane fails to determine whether each of the buyer and seller has gained money or lost money from the trade; instead, Kane only knows whether its own side (buyer or seller) has gained or lost money from the trade; and

- Kane fails to update a preference rating for each of the buyer and seller based on whether money was gained or lost; rather, Kane's system updates only merit quotients for its own agents that made recommendations to buy or sell, the recommendations resulting in a creation of a buy or sell order by Kane's system.

Accordingly, Kane fails to show or suggest the subject matter of claim 1.

Claims 2, 4, 10 and 13-16, in depending from claim 1, incorporate all of its features and so each of these claims is patentably distinguished from Kane for the reasons discussed above.

Withdrawal of the rejection of claims 1, 2, 4, 10 and 13-16 under 35 USC 102(e) is requested.

In paragraph 4 of the Office Action, claims 3, 5-9 and 11-12 were rejected under 35 USC 103 as being unpatentable over Kane in view of U.S. Patent Application Publication No. 2003/0014379 (Saias).

Saias discloses an automated market, AM 108, wherein economic agents bid and ask to establish a trade, the agents being programmed to act as surrogate for humans ([0310]-[0312]). At [0317], Saias explains:

> In the preferred embodiment, the AM 108 receives trading preferences computed by the economic agents and an optimization engine within the AM 108 finds the trade which maximizes the preferences of the participating economic agents. Specifically, the AM 108 allows economic agents such as organizations and firms to anonymously submit terms of a favorable exchange. Upon receipt of the trading preferences from the economic agents, the AM 108 reconciles compatible buyers and sellers. All of the terms that need to be negotiated are specified privately in a manner that incorporates the flexibility and often non-comparable utilities of the organization. Further, none of the surfaces will be available for inspection or analysis by any other market participant, or any third party. Since the AM 108 has the ability to receive preferences from economic agents which privately specify the range over which they are flexible on various terms, the present invention allows the negotiation process to be automated without publicizing the internal state of the participating economic agents.

At [0318], Saias explains that the terms include price, quantity and other characteristics based on what is being traded. Importantly, *Saias's terms are not directed to who is on the other side of the trade*.

Saias lacks the following features of claim 1:

- Saias fails to determine whether each of the buyer and seller in a trade has gained money or lost money from the trade; instead, Saias simply records the trade; and

- Saias fails to update a preference rating for each of the buyer and seller based on whether money was gained or lost; rather, Saias's preferences are directed to the

terms of what is being traded, not to characteristics of the party with whom the trade is occurring.

Accordingly, Saias fails to show or suggest the subject matter of claim 1.

Since each of Kane and Sais fails to show or suggest the following features of claim 1:

- determining whether each of the buyer and seller in a trade has gained money or lost money from the trade; and

- updating a preference rating for each of the buyer and seller based on whether money was gained or lost in the trade,

there is no proper combination of Kane and Saias which makes claim 1 obvious.

Claims 3, 5-9 and 11-12, in depending from claim 1, incorporate all of its features, and so each of these dependent claims is patentably distinguished from any proper combination of Kane and Saias for the reasons discussed above.

Withdrawal of the rejection of claims 3, 5-9 and 11-12 under 35 USC 103 is requested.

In paragraph 6 of the Office Action, claims 17-22 were rejected under 35 USC 102(e) as being anticipated by Saias.

Claim 17 recites a method of facilitating trading, comprising automatically providing a preference designation of anonymous from a first trading process to a market process, and automatically participating in a trade at the market process with a second trading process that is unaware of the identity of the first trading process yet is able to obtain a preference rating from the market process for the first trading process, wherein the first and second trading processes and market process are each software processes executing on a computer, and wherein one of the first and second trading processes is a buyer in the trade, and the other of the first and second trading processes is a seller in the trade.

Saias fails to show or suggest a first trading process that participates in a trade with a second trading process, wherein the second trading process obtains a preference rating from a market process for the first trading process while being unaware of the identity of the first trading process, as specifically recited in claim 17.

Claim 18 recites a method of facilitating trading, comprising automatically providing information to a preference updating process, and automatically deciding, at a software process executing on a computer, the software process being a first market participant, whether to trade

with a second market participant based wherein one of the market participants is a buyer in the trade and the other of the market participants is a seller in the trade.

Saias fails to show or suggest a preference *updating* process, as required by claim 18. Saias further fails to show or suggest a software process (first market participant) that decides whether to trade with a second market participant based on on a preference rating of the second market participant determined by the preference updating process, as required by claim 18. Accordingly, claim 18 is patentably distinguished from Saias.

Claims 19-22, in depending from claim 18, incorporate all of its features, and so each of these dependent claims is patentably distinguished from Saias for the reasons discussed above.

Withdrawal of the rejection of claims 17-22 under 35 USC 102(e) is requested.

The Examiner is invited to contact the undersigned to discuss any issues pertaining to this application.

A Notice of Allowance is solicited.

Respectfully submitted,

Date: <u>November 30, 2005</u>

Brenda Pomerance

Brenda Pomerance
Reg. No. 36,894

Address:
Law Office of Brenda Pomerance
260 West 52 St. Ste. 27B
New York, NY 10019
voice 212 245-3940